



08-CV-05710-CNST

FILED	LOGGED
RECEIVED	
FEB 12 2009	
CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THE UNITED STATES OF AMERICA, )  
THE STATE OF WASHINGTON, THE )  
MUCKLESHOOT INDIAN TRIBE, and )  
THE PUYALLUP TRIBE OF INDIANS, )

Plaintiffs,

v.

PUGET SOUND ENERGY, INC.

Defendant.

Civil Action No. C08-5710RBL

CONSENT DECREE

CONSENT DECREE  
(C08- 5710RBL)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

**I. BACKGROUND**

A. The Plaintiffs filed a complaint against Defendant Puget Sound Energy, Inc. ("PSE" or "Defendant"), concurrently with this Consent Decree, alleging that PSE is liable pursuant to the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. § 2701 *et seq.*, for a spill of approximately 429 barrels, or 18,000 gallons, of diesel fuel that occurred on or about November 3, 2006 at the Crystal Mountain Generation Station Facility, operated by PSE, in the Mount Baker-Snoqualmie National Forest in the State of Washington. The Complaint alleges that as a result of the Spill, diesel fuel flowed to the ground and groundwater, and an undetermined amount of diesel fuel entered Silver Creek and flowed towards the confluence with the White River, approximately four miles downstream.

B. The Complaint seeks natural resource damages under Section 1002 of OPA, 33 U.S.C. § 2702, and the Washington State Water Pollution Control Act (RCW 90.48.142), for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damages, on behalf of the U.S. Department of the Interior; the U.S. Department of Agriculture, Forest Service; the National Oceanic and Atmospheric Administration; the State of Washington; the Muckleshoot Indian Tribe; and the Puyallup Tribe of Indians.

C. The United States, the State, and the Tribes share trusteeship of the injured natural resources and are coordinating restoration efforts.

D. The Trustees allege that the natural resources injured by the Spill, as described in Paragraph A above, include groundwater, soils, fourteen acres of wetlands, and the riparian and aquatic resources of Silver Creek, which had five to six miles of exposure to diesel fuel contamination. The Trustees scaled the restoration necessary to address natural resources allegedly injured by the release of diesel fuel consistent with the Oil Pollution Act and its implementing regulations, 15 C.F.R. § 990, and the Washington State Compensation Table,

CONSENT DECREE  
(C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 WAC 173-183. The Trustees have determined that the settlement contained in this consent  
2 decree will compensate the public for damages to natural resources.

3 E. The Parties agree and the Court finds that settlement of this matter without further  
4 litigation is in the public interest and that the entry of this Consent Decree is the most  
5 appropriate means of resolving this matter.

6 F. The Parties agree, and the Court by entering this Consent Decree finds, that this  
7 Consent Decree has been negotiated by the Parties in good faith and will avoid prolonged and  
8 complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and  
9 in the public interest.

10 G. PSE does not admit any liability arising out of the transactions or occurrences  
11 alleged in this action and does not admit the allegations contained in the complaint or in this  
12 Consent Decree.

13 NOW, THEREFORE, before the taking of any testimony, without the adjudication or  
14 admission of any issue of fact or law except as provided in Section I, and with the consent of the  
15 Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

16 **II. JURISDICTION, VENUE, AND NOTICE**

17 1. This Court has jurisdiction over the subject matter of the claims in this action  
18 pursuant to 28 U.S.C. §§ 1331, 1345, and 1367(a). Venue lies in this judicial district pursuant to  
19 28 U.S.C. §§ 1391(b) and (c), and 1395(a), because the Spill alleged in the Complaint occurred  
20 in, and PSE conducts business in, this judicial district. For purposes of this Consent Decree, or  
21 any action to enforce this Consent Decree, PSE consents to the Court's jurisdiction and venue in  
22 this judicial district.

23 **III. APPLICABILITY**

24 2. The obligations of this Consent Decree apply to and are binding upon the  
25 Plaintiffs and upon Defendant, and its successors or assigns. Any change in ownership or  
26

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 corporate status of the Defendant including, but not limited to, any transfer of assets or real or  
2 personal property, shall in no way alter such Defendant's or its successors' and assigns' rights or  
3 responsibilities under this Consent Decree.

4 **IV. DEFINITIONS**

5 3. Terms used in this Consent Decree that are defined or used in OPA, or in  
6 regulations promulgated thereunder, shall have the meanings assigned to them in the statute or  
7 such regulations, unless otherwise provided in this Consent Decree. Whenever the terms set  
8 forth below are used in this Consent Decree, the following definitions shall apply:

- 9 a. "Complaint" shall mean the complaint filed by the Plaintiffs in this action,  
10 unless noted otherwise.
- 11 b. "Consent Decree" or "Decree" shall mean this Consent Decree.
- 12 c. "Day" shall mean a calendar day unless expressly stated to be a working  
13 day. In computing any period of time under this Consent Decree, where  
14 the last day would fall on a Saturday, Sunday, or federal holiday, the  
15 period shall run until the close of business of the next working day.
- 16 d. "Defendant" or "PSE" shall mean Puget Sound Energy, Inc.
- 17 e. "DOI" shall mean the United States Department of the Interior.
- 18 f. "Facility" shall mean the Crystal Mountain Generation Station Facility  
19 currently operated by PSE and located in Pierce County, Washington.
- 20 g. "Forest Service" shall mean the United States Department of Agriculture,  
21 Forest Service.
- 22 h. "Natural Resources" shall have the meaning set forth in Section 1001(20)  
23 of OPA, 33 U.S.C. § 2701(20).
- 24 i. "Natural Resource Damages" shall have the meaning set forth in Section  
25 1002 of OPA, 33 U.S.C. § 2702, Section 107 of CERCLA, 42 U.S.C.

26  
27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 § 107, the Washington State Water Pollution Control Act Chapter 90.48  
2 RCW, and the Washington Model Toxics Control Act Chapter 70.105D  
3 RCW, which includes damages for injury to, destruction of, loss of, or loss  
4 of use of, natural resources, including the reasonable costs of assessing the  
5 damage.

6 j. "NOAA" shall mean the National Oceanic and Atmospheric  
7 Administration of the United States Department of Commerce.

8 k. "Paragraph" shall mean a portion of this Consent Decree identified by an  
9 Arabic numeral.

10 l. "Parties" shall mean the United States, the State, the Tribes, and PSE.

11 m. "Plaintiffs" shall mean the United States, the State of Washington, the  
12 Muckleshoot Indian Tribe, and the Puyallup Tribe of Indians.

13 n. "Spill" shall mean the discharge of approximately 429 barrels, or 18,000  
14 gallons, of diesel fuel from the Facility on or about November 3, 2006.

15 o. "Section" shall mean a portion of this Consent Decree identified by a  
16 Roman numeral.

17 p. "State" shall mean the State of Washington.

18 q. "Tribes" shall mean the Muckleshoot Indian Tribe and the Puyallup Tribe  
19 of Indians.

20 r. "Trustees" shall mean the designated federal, state, and tribal agencies or  
21 officials who act on behalf of the public as trustees for the Natural  
22 Resources allegedly injured by the Spill: DOI; NOAA; the Forest Service;  
23 the State of Washington; the Muckleshoot Indian Tribe; and the Puyallup  
24 Tribe of Indians.

25 s. "United States" shall mean the United States of America, acting on behalf  
26

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

of DOI, the Forest Service, and NOAA.

**V. DAMAGE ASSESSMENT REIMBURSEMENT AND NATURAL RESOURCE DAMAGES**

4. Damage Assessment Reimbursement. Within thirty (30) days after the Effective Date of this Consent Decree, PSE shall pay to the Trustees a total of \$49,614.47 to reimburse damage assessment costs, as specified below:

- a.) \$19,756.71 to DOI;
- b.) \$13,092.21 to the Forest Service;
- c.) \$10,504.24 to NOAA;
- d.) \$3,061.31 to the State of Washington; and
- e.) \$3,200 to the Puyallup Tribe of Indians.

Payments to DOI, the Forest Service, and NOAA shall be made by FedWire Electronic Funds Transfer ("EFT") to the United States Department of Justice, referencing the Civil Action Number and DOJ case number 90-5-1-1-09177/1. Payments shall be made in accordance with current EFT procedures and instructions to be provided by the Financial Litigation Unit of the U.S. Attorney's Office for the Western District of Washington. Any payments received by the Department of Justice after 4:00pm Eastern Standard Time shall be credited on the next business day.

Payment to the State of Washington shall be made by certified check and made payable and addressed as follows:

Payee: Washington Department of Fish and Wildlife

Address: Puget Sound Energy Spill Restoration  
600 Capitol Way N  
Olympia, Washington 90501-1091  
Attn: Lynn Needham, Accounts Receivable

Payment to the Puyallup Tribe of Indians shall be made by certified check and made payable and addressed as follows:

CONSENT DECREE  
(C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 Payee: Puyallup Tribe of Indians

2 Address: Puyallup Tribe of Indians  
3 3009 East Portland Avenue  
4 Tacoma, Washington 98404  
5 Attn: Bill Sullivan

6 5. Natural Resource Damages. Within thirty (30) days after the Effective Date of  
7 this Consent Decree, PSE shall pay a total of \$512,856.59 for natural resource damages.  
8 Payment shall be made to the Department of the Interior Natural Resource Damage Assessment  
9 and Restoration Fund. Such payment shall be made by FedWire Electronic Funds Transfer  
10 ("EFT") to the United States Department of Justice, referencing the Civil Action Number, DOJ  
11 case number 90-5-1-1-09177/1, NRDAR Account No. 14X5198 and "Natural Resource  
12 Damages for PSE Crystal Mountain Oil Spill." Payments shall be made in accordance with  
13 current EFT procedures and instructions to be provided by the Financial Litigation Unit of the  
14 U.S. Attorney's Office for the Western District of Washington. Any payments received by the  
15 Department of Justice after 4:00pm Eastern Standard Time shall be credited on the next business  
16 day.

17 6. At the time of each payment in Paragraphs 4 and 5 above Defendant shall send  
18 notice that the payment has been made to the Trustees and DOJ in accordance with Section XI  
19 (Notices). The notice shall state that the payment is for Natural Resource Damages or  
20 reimbursement for costs of assessing damages caused by the Spill and shall reference DOJ case  
21 number 90-5-1-1-09177/1 and the Civil Action Number.

#### 22 VI. RESTORATION PLAN

23 7. The Trustees intend to use the funds recovered under Paragraph 5 above to  
24 develop and implement a plan for restoration, rehabilitation, or replacement of natural resources  
25 injured as a result of the Spill. The funds will be used for all costs associated with implementing  
26 restoration, including but not limited to drafting and adopting the restoration plan and related  
27 NEPA/SEPA determinations, public involvement, restoration monitoring, and administrative

28 CONSENT DECREE  
(C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 costs. The restoration plan will be developed, adopted and implemented consistent with  
2 applicable federal, state and tribal law.

3 **VII. STIPULATED PENALTIES**

4 8. Defendant shall be liable for stipulated penalties for violations of this Consent  
5 Decree as specified below. A violation includes failing to perform any obligation required by  
6 the terms of this Consent Decree, according to all applicable requirements of this Consent  
7 Decree and within the specified time schedules established by or approved under this Consent  
8 Decree.

9 9. Failure to Pay Damage Assessment Costs. If Defendant fails to make a  
10 payment required to be paid pursuant to Paragraph 4 of this Consent Decree when due,  
11 Defendant shall pay to the Trustees a stipulated penalty of \$1,000 per Day for each Day that the  
12 payment is late. Payment of a stipulated penalty for failure to make a payment required under  
13 Paragraph 4 shall be in accordance with the payment procedures outlined in Paragraph 4.

14 10. Failure to Pay Natural Resource Damages. If Defendant fails to pay the Natural  
15 Resource Damages required to be paid pursuant to Paragraph 5 of this Consent Decree when  
16 due, Defendant shall pay to the Trustees a stipulated penalty of \$2,000 per Day for each Day that  
17 the payment is late. Payment of a stipulated penalty for failure to make the payment required  
18 under Paragraph 5 shall be in accordance with the payment procedures outlined in Paragraph 5.

19 11. Interest on Late Payments. In addition to the stipulated penalties set forth in this  
20 Section, in the event Defendant fails to make timely payments of any amounts required under  
21 this Consent Decree, Defendant shall pay interest on the unpaid balance. Interest for late  
22 payments of the damage assessment costs and Natural Resource Damages required in Section V,  
23 shall be at the rate specified in Section 1005 of OPA, 33 U.S.C. § 2705.

24 12. Stipulated penalties under this Section shall begin to accrue on the Day after  
25 performance is due and shall continue to accrue until performance is satisfactorily completed.  
26 Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270



1        13. Plaintiffs shall give Defendant written notification that Defendant has failed to  
2 make a timely payment pursuant to this Consent Decree; however, the stipulated penalties  
3 provided for in Paragraphs 9 and 10 shall accrue, as provided in Paragraph 12 above, and shall  
4 be owed regardless of whether or not Defendant has been notified of a violation. Defendant shall  
5 pay any stipulated penalty within thirty (30) Days of receiving the United States' written  
6 demand.

7        14. Any stipulated penalty payments shall be accompanied by a reference to this  
8 Consent Decree and be identified as "Stipulated Penalties." Notice of the payment shall be sent  
9 to the Parties in the manner specified in Section XI (Notices).

10       15. If Defendant fails to pay stipulated penalties according to the terms of this  
11 Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in  
12 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall  
13 be construed to limit the United States or the State from seeking any remedy otherwise provided  
14 by law for Defendant's failure to pay any stipulated penalties.

15       16. Defendant shall not deduct any stipulated penalties paid under this Consent  
16 Decree pursuant to this Section in calculating its federal income tax.

17       17. Subject to the provisions of Section IX of this Consent Decree (Effect of  
18 Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree  
19 shall be in addition to any other rights, remedies, or sanctions available to the United States for  
20 Defendant's violation of this Consent Decree or applicable law.

21                    **VIII. COVENANTS NOT TO SUE**

22       18. Covenant by the Plaintiffs. In consideration of the payments that will be  
23 made by Defendant pursuant to Section V (Damage Assessment Reimbursement and Natural  
24 Resource Damages) of this Consent Decree, the Plaintiffs covenant not to sue or take  
25 administrative action against the Defendant pursuant Section 1002(a) and (b) of OPA, 33 U.S.C.  
26 § 2702(a) and (b), Section 107(a) of the Comprehensive Environmental Response, Compensation

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 and Liability Act, 42 U.S.C. § 9607(a), Section 311 of the Clean Water Act, 33 U.S.C. § 1311,  
2 the Washington State Model Toxics Control Act (Chapter 70.105D RCW), or the Washington  
3 State Water Pollution Control Act (Chapter 90.58 RCW), for Natural Resource Damages caused  
4 by the Spill or otherwise relating to or arising from the Spill. This covenant not to sue is  
5 conditioned upon receipt by the Trustees of all payments and interest required by Section V  
6 (Damage Assessment Reimbursement and Natural Resource Damages) and Section VII  
7 (Stipulated Penalties) of this Consent Decree.

8 19. Covenant by the Parties Not to Present Claims to the Oil Spill Liability Trust  
9 Fund. All Parties covenant not to assert any claim for response costs or damages arising from  
10 the Spill, pursuant to Sections 1008 and 1013 of OPA, 33 U.S.C. §§ 2708 and 2713, to the Oil  
11 Spill Liability Trust Fund.

12 20. Covenant by the Defendant. Defendant PSE hereby covenants not to sue and  
13 agrees not to assert any claims or causes of action against the Plaintiffs (including all employees,  
14 agents, contractors, departments, agencies, administrations and bureaus thereof) related to  
15 Natural Resource Damages arising out of the Spill, including without limitation any potential or  
16 pending claims against the Oil Spill Liability Trust Fund relating to the Spill.

17 **IX. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

18 21. Notwithstanding any other provision of this Consent Decree, the Plaintiffs  
19 reserve, and this Consent Decree is without prejudice to, all legal and equitable remedies  
20 available to enforce the provisions of this Consent Decree, except as expressly stated in  
21 Section VIII above. This Consent Decree shall not be construed to limit the rights of the  
22 Plaintiffs to obtain penalties or injunctive relief under the Clean Water Act, 33 U.S.C. § 1251 *et*  
23 *seq.*, or OPA, or implementing regulations, or under other federal or state laws, regulations, or  
24 permit conditions, except as expressly specified in Section VIII above.

25 22. In any subsequent administrative or judicial proceeding initiated by the Plaintiffs  
26 for injunctive relief, civil penalties, damages, or other appropriate relief relating to Defendant's

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 Facility, Defendant shall not assert, and may not maintain, any defense or claim based upon the  
2 principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-  
3 splitting, or other defenses based upon any contention that the claims raised by the Plaintiffs in  
4 the subsequent proceeding were or should have been brought in the instant case, except with  
5 respect to claims that have been specifically resolved pursuant to Section VIII of this Consent  
6 Decree.

7 23. This Consent Decree does not limit or affect the rights of Defendant or of the  
8 Plaintiffs against any third parties, not party to this Consent Decree, nor does it limit the rights of  
9 third parties, not party to this Consent Decree, against Defendant, except as otherwise provided  
10 by law.

11 24. This Consent Decree shall not be construed to create rights in, or grant any cause  
12 of action to, any third party not party to this Consent Decree.

13 **X. COSTS**

14 25. The Parties shall bear their own costs of this action, including attorneys' fees,  
15 except that the Plaintiffs shall be entitled to collect the costs (including attorneys' fees) incurred  
16 in any action necessary to collect any portion of amounts not paid by Defendants as required by  
17 the Consent Decree.

18 **XI. NOTICES**

19 26. Unless otherwise specified herein, whenever notifications, submissions, reports or  
20 communications are required by this Consent Decree, they shall be made in writing and  
21 addressed to all parties as follows:

22 **As to the United States**

23 Chief, Environmental Enforcement Section  
24 Environment and Natural Resources Division  
25 U.S. Department of Justice  
26 Box 7611, Ben Franklin Station  
27 Washington, D.C. 20044-7611  
28 Re: DOJ No. 90-5-1-1-09177/1

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 As to DOI

2 Barry Stein  
3 U.S. Department of the Interior  
4 Office of the Solicitor, Pacific Northwest Region  
5 805 SW Broadway, Suite 600  
6 Portland, Oregon 97205  
7 Facsimile: (503) 231-2166

8 As to the Forest Service

9 James Alexander  
10 U.S. Department of Agriculture, Forest Service  
11 Room 1734, Federal Building  
12 1220 SW Third Avenue  
13 Portland, Oregon 97204

14 As to NOAA

15 Robert Taylor  
16 GCNR/NW  
17 National Oceanic and Atmospheric Administration  
18 7600 Sand Point Way N.E.  
19 Seattle, WA 98115

20 As to the State

21 Rebecca Post  
22 Washington State Department of Ecology  
23 PO Box 47600  
24 Olympia, WA 98504-7600

25 Katharine G. Shirey  
26 Washington State Attorney General's Office  
27 PO Box 40117  
28 Olympia, WA 98504  
Facsimile: 360-596-6760

As to the Tribes

Charlotte Williams  
Muckleshoot Indian Tribe  
39015 172<sup>nd</sup> Avenue SE  
Auburn, Washington 98092  
Facsimile: (253) 939-5311

Bill Sullivan  
Puyallup Tribe of Indians  
3009 East Portland Avenue  
Tacoma, Washington 98404  
Facsimile: (253) 573-7929

CONSENT DECREE  
(C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 As to PSE

2 Steve Secrist  
3 PO Box 09868  
4 EST-06E  
5 Bellevue, WA 98009-9734  
6 Facsimile: (425) 462-3587

7 Mark Schneider  
8 Perkins Coie LLP  
9 1201 Third Ave., Suite 4800  
10 Seattle, WA 98101-3099  
11 Facsimile: (206) 359-9627

12 27. Any Party may, by written notice to the other Parties, change its designated notice  
13 recipient or notice address provided above.

14 28. Notices submitted pursuant to this Section shall be deemed submitted upon  
15 mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties  
16 in writing.

17 **XII. EFFECTIVE DATE**

18 29. The Effective Date of this Consent Decree shall be the date this Consent Decree is  
19 entered by the Court.

20 **XIII. RETENTION OF JURISDICTION**

21 30. The Court shall retain jurisdiction over both the subject matter of this Consent  
22 Decree and the Parties for the duration of the performance of the terms and provisions of this  
23 Consent Decree for the purpose of enabling any of the Parties to apply to the Court for such  
24 further order, direction, and relief as may be necessary or appropriate to enforce compliance with  
25 its terms or to enable all of the Parties to apply to the Court for the material modification of the  
26 Consent Decree pursuant to Section XIV below. Nothing in this Consent Decree shall be  
27 deemed to limit or alter the Court's power to enforce it.

28 **XIV. MODIFICATION**

31. The terms of this Consent Decree may be modified only by a subsequent written  
agreement signed by all the Parties. Where the modification constitutes a material change to this

CONSENT DECREE  
(C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 Consent Decree, it shall be effective only upon approval by the Court.

2 **XV. PUBLIC PARTICIPATION**

3 32. This Consent Decree shall be lodged with the Court for a period of not less than  
4 thirty (30) Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The  
5 Plaintiffs each reserve the right to withdraw or withhold its consent if the comments regarding  
6 the Consent Decree disclose facts or considerations indicating that the Consent Decree is  
7 inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree  
8 without further notice.

9 **XVI. SIGNATORIES/SERVICE**

10 33. The Deputy Section Chief of the Environmental Enforcement Section of the  
11 United States Department of Justice and each undersigned representative of the State of  
12 Washington, the Muckleshoot Indian Tribe, the Puyallup Tribe of Indians and Defendant  
13 certifies that he or she is fully authorized to enter into the terms and conditions of this Consent  
14 Decree and to execute and legally bind the Party he or she represents to this document.

15 34. This Consent Decree may be signed in counterparts, and its validity shall not be  
16 challenged on that basis. Defendant agrees to accept service of process by mail with respect to  
17 all matters arising under this Consent Decree and to waive the formal service requirements set  
18 forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of  
19 this Court including, but not limited to, service of a summons.

20 **XVII. INTEGRATION**

21 35. This Consent Decree constitutes the final, complete, and exclusive agreement and  
22 understanding among the Parties with respect to the settlement embodied in the Consent Decree  
23 and supercedes all prior agreements and understandings, whether oral or written, concerning the  
24 settlement embodied herein. No other document, nor any representation, inducement,  
25 agreement, understanding, or promise, constitutes any part of this Consent Decree or the  
26 settlement it represents, nor shall it be used in construing the terms of this Consent Decree.


27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

**XVIII. FINAL JUDGMENT**

36. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State, the Tribes and Defendant.

Dated and entered this 12<sup>th</sup> day of February, 2009

  
UNITED STATES DISTRICT JUDGE  
Western District of Washington

CONSENT DECREE  
(C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States, et  
2 al. v. Puget Sound Energy, Inc., relating to the Crystal Mountain diesel fuel spill:

3 FOR THE UNITED STATES OF AMERICA:

4  
5  
6 /s BRUCE S. GELBER  
7 BRUCE S. GELBER  
8 Section Chief  
9 Environmental Enforcement Section  
10 Environment and Natural Resources Division  
11 United States Department of Justice

12  
13 /s ERIKA M. ZIMMERMAN  
14 ERIKA M. ZIMMERMAN  
15 Trial Attorney  
16 Environmental Enforcement Section  
17 Environment and Natural Resources Division  
18 United States Department of Justice  
19 P.O. Box 7611, Ben Franklin Station  
20 Washington, D.C. 20044-7611  
21 Telephone: (202) 514-5270  
22 Facsimile: (202) 514-4180

23  
24  
25  
26  
27 JEFFREY C. SULLIVAN  
28 United States Attorney

BRIAN C. KIPNIS  
Assistant United States Attorney  
5220 United States Court House  
700 Stewart Street  
Seattle, Washington 98101-1271  
Telephone: (206) 553-7970  
Facsimile: (206) 553-4073  
E-mail: brian.kipnis@usdoj.gov

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270



1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States, et  
2 al. v. Puget Sound Energy, Inc., relating to the Crystal Mountain diesel fuel spill:

3 FOR THE STATE OF WASHINGTON:  
4

5  
6 /s KATHERINE G. SHIREY  
KATHARINE G. SHIREY  
7 Washington State Attorney General's Office  
P.O. Box 40117  
8 Olympia, WA 98504  
Facsimilie: 360-586-6760  
9

10  
11 /s DALE JENSEN  
DALE JENSEN  
12 Manager, Spills Program  
Washington State Department of Ecology  
13 P.O. Box 47600  
Olympia, Washington 98504-7600  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States, et  
2 al. v. Puget Sound Energy, Inc., relating to the Crystal Mountain diesel fuel spill:

3 FOR THE MUCKLESHOOT INDIAN TRIBE:  
4

5  
6 /s CHARLOTTE WILLIAMS

7 CHARLOTTE WILLIAMS

8 Chairperson

9 Muckleshoot Indian Tribe

10 39015 172nd Avenue SE

11 Auburn, Washington 98092

12 Facsimile: (253) 939-5311  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States, et  
2 al. v. Puget Sound Energy, Inc., relating to the Crystal Mountain diesel fuel spill:

3  
4 FOR THE PUYALLUP TRIBE OF INDIANS:

5  
6 /s HERMAN DILLON, SR.  
HERMAN DILLON, SR.  
Chair  
Puyallup Tribal Council  
3009 Portland Avenue  
Tacoma, Washington 98404  
Facsimile: (253) 573-7929  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States, et  
2 al. v. Puget Sound Energy, Inc., relating to the Crystal Mountain diesel fuel spill:

3 FOR DEFENDANT PUGET SOUND ENERGY, INC.:

4  
5 /s STEVEN SECRIST  
6 STEVEN SECRIST  
7 Deputy General Counsel  
8 Puget Sound Energy, Inc.  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 CONSENT DECREE  
28 (C08-\_\_\_\_\_)

Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington DC, 20009  
(202) 514-5270